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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/438,759	11/11/1999	GISELA MEIER	2368/098	9841

7590

02/28/2003

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EXAMINER

LAM, ANN Y

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/438,759

Applicant(s)

MEIER ET AL.

Examiner

Ann Y. Lam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-21 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen et al., 5,720,718, in view of Edwards et al., 5,536,240.

Rosen discloses an electrically conductive cannula tube with a sharp tip with an exit opening, see column 5, lines 13-22, a body part (4, 276 and 300) including an inlet opening axially aligned with the cannula tube, see column 8, lines 1-5, a connector (294) electrically connected to the cannula in the area of the body part, wherein said cannula tube has an electrically insulating outer covering of the cannula tube, see column 3, lines 47-49, which extends from the body part out to the tip and which leaves the tip exposed at least in its distal end area, and wherein said electrical connector (294) extends through the body part to the outer surface of the cannula tube.

As to claim 13, an electrical connection is formed between the electrical connector (294) and cannula tube by an electrical contact pressed against the circumference of the cannula tube, to which contact a wire of a multi-strand connector is soldered, see column 6, lines 37-42.

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As to claim 14, the wire lies axially parallel against the cannula tube and the multi-strand conductor runs radially through the body part towards the outside, see column 6, lines 37-42, and see Figure 1.

As to claim 15, the proximal end of the cannula tube is provided co-axially in the body part, wherein a ring gap (see 300 in Figure 6) is formed between the proximal end of the cannula tube and the thereto connected electrically contacting connector and an inner wall of the body part, and wherein said ring gap is filled with plastic.

As to claim 16, the inlet of the body part decreases in diameter, see (300) and (276) in Figure 6.

As to claim 17, the proximal end of the body part is considered to have a luer-lock connection, see proximal end of (300) and (276) in Figure 6.

As to claims 19 and 24, the distal tip is a facet cut, see (901) in Figure 14.

As to claim 20, the facet cut is angled at an angle of approximately 45 degrees to the axis of the cannula tube, see (901) in Figure 14.

As to claim 21, the distal tip is formed as a closed conically arched tip with an exit opening, see (901) in Figure 14.

As to claim 25, said cannula tube tip is considered to be a Sprotte tip.

However, Rosen et al. does not disclose that the exposed end area of the distal tip of the cannula has a length of maximally 1mm. However, it would have been obvious to one of ordinary skill in the art to expose the tip of the cannula as would be necessary for treatment such as ablation or destruction of targeted tissues, see column 5, lines 25-30.

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Also, Rosen et al. does not disclose tube is steel.

Edwards et al. however discloses a stylet enclosed within a non-conductive layer, wherein the stylet that is constructed of conductive metal such as steel, see column 3, lines 54-59 and column 9, lines 43-52. It would have been obvious to use steel as the conductive material for forming the stylet in Rosen et al., as taught by Edwards et al..

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen et al., 5,720,718, in view of Edwards et al., 5,536,240, and further in view of Schaer, 5,782,760. Rosen et al. in view of Edwards et al. discloses the invention substantially as claimed, see above, except for a ramp is formed on the inside of the distal end of the cannula tube.

Schaer discloses a cannula for RF ablation and passage of fluid, wherein the cannula has a ramp on the inside of its distal end, see (53), in Figure 13. It would have been obvious to provide a ramp on the inside of the distal end of the cannula tube of Rosen et al., as taught by Schaer as a known configuration for a cannula used for RF ablation and passage of fluid.

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R s p n s t o A r g u m e n t s


Applicant's arguments with respect to the above claims have been considered but are moot in view of the new ground(s) of rejection.

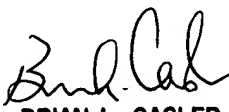
C o n c l u s i o n

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on T-F 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (703)308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

A.L. 
February 23, 2003


BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700